

**ORDINANCE NO. 2016-14**

**ORDINANCE AMENDING FOREST GROVE DEVELOPMENT CODE ARTICLE 3,  
ARTICLE 8 AND ARTICLE 12 FOR PURPOSES OF ADOPTING TIME, PLACE AND  
MANNER RESTRICTIONS FOR MARIJUANA FACILITIES, CLASSIFYING  
MARIJUANA FACILITIES, AND ADOPTING DEFINITIONS; FILE NO. 311-16-00034**

**WHEREAS**, the Oregon Legislature enacted House Bill 3400 (2015) now codified as Oregon Revised States (ORS) Chapter 457B; and

**WHEREAS**, ORS 457B.340 authorizes local jurisdictions to adopt time, place and manner regulations for the operation of marijuana facilities; and

**WHEREAS**, on April 27, 2016, the Public Safety Advisory Commission (PSAC) adopted recommendations pertaining to additional time, place and manner restrictions for marijuana facilities for consideration by the Planning Commission; and

**WHEREAS**, on May 5, 2016, the Economic Development Commission (EDC) endorsed the PSAC recommendations; and

**WHEREAS**, the Parks and Recreation Board adopted a motion on June 15, 2016, to endorse the PSAC recommendation to prohibit marijuana facilities near parks; and

**WHEREAS**, the Forest Grove School Board adopted a resolution on May 23, 2016, expressing support for the PSAC recommendation to prohibit marijuana facilities near schools; and

**WHEREAS**, the Planning Commission held a duly-noticed public hearing on June 6, 2016, to consider the PSAC recommendations; and

**WHEREAS**, the Planning Commission considered the PSAC recommendations, staff report and public testimony and adopted a motion modifying the PSAC recommendations; and

**WHEREAS**, City Council held a duly-noticed public hearing on June 27, 2016, and continued the hearing on July 11, 2016, to consider the Planning Commission's recommendations.

**NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS  
FOLLOWS:**

**Section 1.** The City Council adopts the Planning Commission Findings 16-07 dated June 9, 2016, as modified by the City Council, to allow certain marijuana facilities in the Light Industrial zone as a conditional use as shown on Exhibit A.

**Section 2.** Based on the findings set forth on Section 1, the City Council adopts the Planning Commission recommendation and approves the Development Code text amendment as shown on Exhibit A.

**Section 3.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

**Section 4.** This ordinance is effective on July 25, 2016, (14 days), following its enactment by the City Council.

**PRESENTED AND PASSED** the first reading this 27<sup>th</sup> day of June, 2016.

**PASSED** the second reading this 11<sup>th</sup> day of July, 2016.

  
Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 11<sup>th</sup> day of July, 2016.

  
Peter B. Truax, Mayor

## EXHIBIT A

Highlighted text indicates text to add.

**Revise Development Code Section 10.3.520 (Use Regulations) as follows:**

TABLE 3-14: Industrial Zones Use Table

USE CATEGORY	LI	GI	BIP
- General Industrial	N	P	L[8]
<u>- Medical and Recreational Marijuana Processors</u>	N	<u>C</u>	<u>N</u>
<u>Warehouse/Freight Movement</u>	<u>P/C[X]</u>	<u>P/C[X]</u>	<u>P/C[X]</u>
<u>Wholesale Sales</u>	<u>P[8]/C[Y]</u>	<u>P[8]/C[Y]</u>	C
OTHER	P[8]	P[8]	P
Agriculture / Horticulture			
<u>- Medical and Recreational Marijuana Producers (Outdoor)</u>	<u>N</u>	<u>N</u>	<u>N</u>
<u>- Medical and Recreational Marijuana Producers (Indoor)</u>	<u>C</u>	<u>C</u>	<u>N</u>

P = Permitted    L = Limited    C = Conditional Use    N = Not Permitted

[X]      Marijuana facilities including warehousing requires a conditional use permit.

[Y]      Wholesale activities for marijuana requires a conditional use permit in the LI and GI zone.

**Revise Development Code Section 10.3.320 (Use Regulations) as follows:**

TABLE 3-10  
Commercial and Mixed Use Zones Use Table

USE CATEGORY	NC	CC	NMU
<u>Office</u>	<u>P L[18]</u>	<u>P L[18]</u>	<u>L<sup>[16]</sup> [18]</u>

P = Permitted    L = Limited    C = Conditional Use    N = Not Permitted

[7]      Marijuana retailers are prohibited in the Neighborhood Commercial and Neighborhood Mixed Use zones and conditionally permitted within the Community Commercial zone district, consistent with the locational requirements of State law and compliance with the requirements of Section 10.8.1100 of this code.

[12]      Medical marijuana dispensaries must be located consistent with the requirements of State law and comply with the provisions of Section 10.8.1100 of this code. Medical marijuana dispensaries are classified as a conditional use.

[18]      Marijuana testing laboratories are prohibited in the NC and NMU and conditional uses in the CC zone.

## MARIJUANA DEVELOPMENT STANDARDS

### 10.8.1100 GENERAL STANDARDS FOR ALL MARIJUANA FACILITIES

- A. The application shall demonstrate compliance with the locational requirements of ORS 475B and must maintain State certification at all times.
- B. Marijuana-related activities are prohibited on publicly-owned lands.
- C. Entrances and off-street parking areas shall be well-lit and not visually obscured from public view / right-of-way. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances. Interior building lighting, exterior building lighting and parking area lighting shall be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual at a distance of no less than forty (40) feet. Exterior lighting shall be provided in accordance with required security measures and shall be continuously maintained.
- D. The facility must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.
- E. All hazardous materials shall be stored and processed in a manner approved by the City Fire Marshal. Hazardous waste shall be disposed of properly through a properly licensed solid waste disposal or recycling facility.
- F. A pre-application conference and conditional use approval (Development Code Section 10.2.200 et. seq.) is required for any marijuana producer, processor, wholesaler, or testing laboratory. A neighborhood meeting may be required as part of the pre-application process pursuant to Section 10.2.200 et. seq.
- G. The City shall not issue any other permit for development until final Conditional Use approval has been granted.
- H. Any person or property in violation of Section 10.8.1100 et. seq. is subject to abatement and assessment by the City under the abatement procedures of Municipal Code Sections 5.270 through 5.290.

### 10.8.1120 MEDICAL MARIJUANA DISPENSARIES AND MARIJUANA RETAILERS

A medical marijuana dispensary and marijuana retailer activities shall comply with the following design standards and operational requirements in addition to all other applicable City requirements:

- A. May not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

- B. The facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited.
- C. Any modification to the site or the exterior of the building housing the facility must be consistent with the Design Standards of Section 10.8.700 et. seq. Security bars or grates on windows and doors are prohibited unless integrated into the design.
- D. The dispensary or retail operation may not have facilities for drive-up use.
- E. The dispensary must provide for secure disposal or render impotent marijuana remnants or by-products, or items with marijuana residue of any kind.
- F. A medical marijuana dispensary may not locate within 1,000 feet from a school (public or private). A medical marijuana dispensary may not locate within 1,000 feet of another medical marijuana dispensary. Distance shall be measured property line to property line.
- G. A recreational marijuana retailer may not locate within 1,000 feet of a school (public or private). Distances shall be measure property line to property line.

#### 10.8.1130 OTHER MARIJUANA FACILITIES

The following requirements apply to marijuana-related wholesaler, processing, producers, and testing laboratories.

- A. ~~With the exception of outdoor grow operations including the use of removable greenhouses, The facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor storage of merchandise, raw materials, or other material associated with the facility is prohibited. Views into a production or processing area or testing laboratory from the exterior of a building are prohibited.~~
- B. Public access to a marijuana facility shall be limited to employees, personnel, and persons over the age of 21 legally authorized to conduct business with the operator.
- C. All, producers, processors, wholesalers, and testing laboratories shall provide a method to control odors. Such facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. The systems shall include the following features:
  - 1. Installation of activated carbon filters on all exhaust outlets to the building exterior; and
  - 2. Location of exhaust outlets a minimum of 10 feet from the property line; 3 feet from exterior walls; and 10 feet above finished grade; and
  - 3. Maintenance of negative air pressure within the facility; or

4. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.

#### 10.12.150 OTHER USE CATEGORY

(A): Agriculture/Horticulture: ~~Open areas~~ An area (open or enclosed) devoted to the raising of plants, fruits, vegetables, nuts, nursery stock and/or flowers; may include on-site sales of products grown on the site. Agriculture/Horticulture includes hydroponic agriculture within buildings. Excludes nurseries, which are classified under Outdoor Sales (see 10.12.130(D)(5)).

#### 10.12.210 MEANING OF SPECIFIC WORDS AND TERMS

M6. A facility registered with the Oregon Health Authority or for which an application has been submitted to the Oregon Health Authority that transfers usable marijuana, immature marijuana plants, seeds, and cannabinoid products, concentrates and extracts to registrants and primary caregivers. Dispensaries also receive transfers of cannabinoid products, concentrates and extracts from marijuana processing facilities. Dispensaries receive transfers of usable marijuana, immature marijuana plants and seeds from registrants and primary caregivers. Medical marijuana dispensaries are classified as Commercial: Medical Centers.

M7. Marijuana Facilities. Facilities including recreational marijuana producers, recreational marijuana processors, recreational marijuana retailers, recreational marijuana wholesalers and medical marijuana dispensaries, medical marijuana producers, and medical marijuana processors.

M8. Marijuana Processor. A facility licensed by the Oregon Liquor Control Commission or registered by the Oregon Health Authority to process, compound or convert marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extract. Marijuana processors are classified as Industrial: Manufacturing and Production.

M9. Medical Producer – Medical. A specific location registered by the Oregon Health Authority (OHA) used by a medical marijuana grower to manufacture, plant, cultivate, grow, or harvest marijuana or dry marijuana leaves or flowers for medical use by a specific patient. Medical marijuana producers are classified as Other: Agriculture/Horticulture.

M10. Marijuana Producer – Recreational. A facility that is licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana. Recreational Marijuana Producers are classified as Other: Agriculture/Horticulture

M11. Marijuana Production - Indoor. According to OAR 845-025-2000(2) means producing marijuana in any manner (a) utilizing artificial light on mature marijuana plants or (b) other than outdoor production.

M12. Marijuana Production – Outdoor. According to OAR 845-025-2000(3) means producing marijuana (a) in an expanse of open or cleared ground or (b) in a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial light on mature marijuana plants, including but not limited to electrical lighting sources.

M13. Marijuana Retailer. A facility licensed by the Oregon Liquor Control Commission to sell marijuana to a consumer. Marijuana retailers are classified as General Retail: Sales-Oriented.

M14. Marijuana Testing Laboratories. A state licensed laboratory for testing of marijuana items licensed by the Oregon Liquor Control Commission. Marijuana testing laboratories are classified as Commercial: Office.

M15. Marijuana Wholesaler. A facility licensed by the Oregon Liquor Control Commission to purchase marijuana items in Oregon for resale to a person other than a consumer. Recreational marijuana wholesalers are classified as Industrial: Wholesale Sales.

S1. School A public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a).